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# W13a

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Staff:	Robert S. Merrill
Staff Report:	December 2, 2005
Hearing Date:	December 14, 2005
Commission Action:	

## STAFF REPORT: REGULAR CALENDAR

<b>APPLICATION NO.:</b>	<b>1-05-021</b>
<b>APPLICANTS:</b>	<b>JEANINE MARTIN</b>
<b>PROJECT LOCATION:</b>	At 1090 Stagecoach Road, approximately 1.5 miles north of Trinidad, Humboldt County (APN 515-231-004)
<b>PROJECT DESCRIPTION:</b>	Divide a 39.7-acre parcel into 4 lots of approximately 5.2 acres (Parcel 1), 10.3-acres (Parcel 2), 10.2 acres (Parcel 3), and 14 acres (remainder parcel) and establish a vertical public access way over an existing foot trail to a beach through a grant of easement.
<b>GENERAL PLAN DESIGNATION (UNCERTIFIED):</b>	Rural Residential (RRB), One dwelling per two acres.

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**ZONING DESIGNATION  
(UNCERTIFIED):**

Rural Residential Agriculture, 5-acre minimum lot size, with Alquist Priolo fault hazard, design review, and the protection of offshore rocks, intertidal areas, streams, and riparian corridors combining zones (RA-5/G,D,O, R)

**LOCAL APPROVALS RECEIVED:**

Humboldt County Parcel Map Subdivision and Special Permit

**OTHER APPROVALS REQUIRED:**

None

**SUBSTANTIVE FILE DOCUMENTS:**

Humboldt County Local Coastal Program; Coastal Development Permit No. 1-92-170 (Witherill)

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**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission approve with conditions the coastal development permit application for the proposed division of a 39.7-acre parcel situated along the bluffs and bluff top between the City of Trinidad and Patrick's Point State Park in Humboldt County. The land division would divide the property into 4 lots of approximately 5.2 acres (Parcel 1), 10.3-acres (Parcel 2), 10.2 acres (Parcel 3), and 14 acres (remainder parcel). The proposed project includes the improvement of certain access driveways and water system improvements. The applicant is also proposing to dedicate an easement to the Humboldt North Coast Land Trust for a ten (10)- foot-wide vertical easement located on proposed Parcel 2 over an existing foot path that provides access to "Secret" Beach.

The subject property is located outside of the urban boundary of Trinidad, and is therefore subject to the rural land division criteria of Section 30250(a) of the Coastal Act. To meet the criteria, the subject property must be located within an area where 50% or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels. In this instance, due to the presence of several large parcels, the arithmetic mean of surrounding parcels is larger than the smallest of the parcels proposed to be created by the subdivision (5.2 acres). However, both the median parcel size and the mode of surrounding parcels is smaller

than 5.2 acres, and therefore staff believes that the proposed parcel sizes of the lots to be created by the land division are consistent with the average parcel size test of the rural land division criteria. With regard to developed parcels, 27 of the 39 surrounding parcels in the study area, or 69% are developed. Thus, the proposed land division meets the developed parcel criteria as over 50 percent of the surrounding parcels are developed. Therefore, the proposed subdivision is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

The marine terrace upon which future residential development that would be accommodated by the proposed land division sits atop high bluffs that rise approximately 200 feet above the ocean. The bluffs are subject to bluff retreat. A geotechnical investigation conducted for the project projected bluff retreat rates based on examination of aerial photographs and estimated a rate of retreat of approximately 0.7 feet per year for the portion of the bluff along proposed Parcel 1 and a rate of retreat of approximately 1.1 feet per year for the portion of the bluffs along proposed Parcels 2 and 3. Based on these retreat rates and a quantitative slope stability analysis that necessitated the application of a 1.5 factor of safety, the geotechnical report recommends that 100-foot bluff edge setbacks be applied to Parcels 1 and 3, and that a 125.5-foot setback be established on Parcel 2. Therefore, staff is recommending Special Condition No. 1, which would require that these setback areas be restricted as open space. Special Condition No. 6 requires that the final parcel map to be recorded depict the restricted areas. In addition, staff is recommending Special Conditions 10 and 11. Special Condition No. 10 prohibits bluff or shoreline protective devices from ever being constructed to protect the roadway and driveway improvements approved by this permit and to require removal of this development if the improvements cannot be used due to geologic hazards. Special Condition No. 11 requires that the applicant (1) acknowledge and agree that the site may be subject to geologic hazards, (2) assume the risks of injury and damage from such hazards, and (3) waive any claim of damage or liability against the Commission, officers, agents, and employees for injury or damage from such hazards.

The riparian area along Martin Creek, which bisects the property from east to west, constitutes an environmentally sensitive habitat area. The coastal bluffs and intertidal areas on the subject property also contain environmentally sensitive habitat for rare or endangered species. To ensure consistency with the requirements of Section 30240 of the Coastal Act that require that such areas be protected against any significant disruption of habitat values, only uses dependent on the resources of the ESHA be allowed within an ESHA, and that adjacent development be sited and designed to prevent impacts which would significantly degrade the ESHA, staff recommends Special Condition Nos. 1, 6, and 9. Special Condition No. 1 would require that the bluff setback areas, Martin Creek, and a 100-foot buffer area on either side of Martin Creek be restricted as open space to preclude development that would adversely affect ESHA resources. Special Condition No. 6 requires that the final parcel map to be recorded depict the restricted areas. In addition, Special Condition No. 9 would prohibit the planting of invasive and exotic plant species, allow only native and/or non-invasive plant species to be planted at the site, and prohibit the application of anticoagulant-based rodenticides to prevent invasive exotic

plant species from invading offsite environmentally sensitive areas and avoid bioaccumulation of toxics in environmentally sensitive species, such as raptors.

Construction of the land division road improvements could result in runoff impacts to the water quality of Marin Creek and adjoining coastal waters if not controlled. Special Condition No. 4 requires that a final erosion control and runoff plan be submitted for review and approval by the Executive Director to ensure that the construction of the land division road improvements do not result in impacts to coastal water quality, consistent with Section 30231 of the Coastal Act.

Although no known archaeological sites are known to exist on the subject property, the site is within an area of the coast that contained settlements of the Yurok people. Special Condition No. 8 would require that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required. As conditioned, the proposed project would protect potential archaeological resources consistent with Section 30244 of the Coastal Act.

The applicant proposes to dedicate a vertical coastal access easement across proposed parcel 2 to the Humboldt North Coast Land Trust to provide public access to Secret Beach, at the base of the coastal bluffs near the mouth of Martin Creek. The Humboldt North Coast Land Trust has indicated its willingness to accept and manage the access way. The easement would encompass an existing footpath that has received some public use in the past. Thus, the easement would protect rights of prescriptive public access that may have accrued over the site. As the proposed parcels to be created would be sufficiently large to include feasible building sites where future development would not adversely affect any areas where prescriptive rights of access may have accrued, the project will not adversely affect public access and would provide maximum public access consistent with LCP and Coastal Act policies. To implement the applicant's proposal, Special Condition No. 2 would require that the applicant submit for the review and approval of the Executive Director, evidence that the applicant has executed and recorded a dedication to the Humboldt North Coast Land Trust of an easement for public vertical access in accordance with the terms of the Project Description as proposed by the applicant.

To help ensure continued compliance with the above-described recommended special conditions, staff also recommends Special Condition No. 3. The special condition would require that a deed restriction be recorded against the subject parcel indicating that the Commission has authorized development subject to specific terms and conditions and

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notifying any future owners that these special conditions are imposed as covenants, conditions and restrictions on the use and enjoyment of the property.

As conditioned, staff recommends that the Commission find that the project is consistent with the Chapter 3 policies of the Coastal Act.

**The Motion to adopt the Staff Recommendation of Approval with Conditions is found on pages 5-6.**

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**STAFF NOTES:**

**1. Standard of Review**

The proposed project is located in the Trinidad area of Humboldt County. Humboldt County has a certified LCP, but the subject property is located within an area of deferred certification. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

**2. Addendum**

This staff report does not contain certain findings for approval of the project, including the findings related to public access, protection of environmentally sensitive habitat, geologic hazards, visual resource protection, and new development. Staff was unable to complete all of the findings prior to the mailing of the staff report. In addition, staff is continuing to meet with the applicant to clarify the details as to how the vertical public access easement would be implemented, which need to be reflected in the public access findings. However, staff will present the recommended findings for approval of the project as part of an addendum at the Commission meeting. The findings will reflect the basis for approval with conditions discussed in the Summary of the Staff Recommendation.

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**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:**

The staff recommends that the Commission adopt the following resolution:

**Motion:**

I move that the Commission approve Coastal Development Permit No. 1-05-021 pursuant to the staff recommendation.

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

**II. STANDARD CONDITIONS:      See Attachment A.**

**III. SPECIAL CONDITIONS:**

**1. Open Space Restrictions**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in all areas of the subject parcels created by the land division situated in or within one-hundred feet (100') of the exterior boundary of delineated wetlands and riparian vegetation environmentally sensitive habitat areas along Martin Creek, except those areas within the County road easement, as documented in the "Biological Assessment for the Martin Subdivision" prepared by SHN Consulting Engineers and Geologists, Inc. dated April 26, 2004, attached as Exhibit No. 7, except for:

1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation to improve the habitat value of the buffer, and (b) removal of debris and unauthorized structures.

B. No development, as defined in Section 30106 of the Coastal Act, shall occur in all areas of parcels 1 and 3 created by the land division situated within 100 feet of the existing bluff edge as documented in the "Bluff Edge Setback Evaluation, Parcels 1, 2, and 3 of the Proposed Subdivision of APN 515-231-004, Trinidad,

California,” prepared by SHN Consulting Engineers and Geologists, Inc. dated November, 2005, excerpts of which are attached as Exhibit No. 6, except for:

1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation, and (b) removal of debris and unauthorized structures.
- C. No development, as defined in Section 30106 of the Coastal Act, shall occur in all areas of parcel 2 created by the land division situated within 125 feet of the existing bluff edge as documented in the “Bluff Edge Setback Evaluation, Parcels 1, 2, and 3 of the Proposed Subdivision of APN 515-231-004, Trinidad, California,” prepared by SHN Consulting Engineers and Geologists, Inc. dated November, 2005, excerpts of which are attached as Exhibit No. 6, except for:
1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation, and (b) removal of debris and unauthorized structures.
- D. **PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. 1-05-021**, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition.

**2. Vertical Access Over Trail to Beach.**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and in order to implement the applicant’s proposal, the applicant shall submit for the review and approval of the Executive Director, evidence that the applicant has executed and recorded a dedication to the Humboldt North Coast Land Trust of an easement for public vertical access in accordance with the terms of the Project Description as proposed by the applicant except as otherwise modified by these Special Conditions.

Any future development that is proposed to be located either in whole or in part within the area described in the recorded offer of dedication shall require a Commission amendment, approved pursuant to the provisions of 14 CCR § 13166, to this Permit. This requirement shall be reflected in the provisions of the recorded offer.

**3. Deed Restriction**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**4. Final Erosion and Runoff Control Plan**

**PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-05-021**, the applicant shall submit a plan for erosion and run-off control to the Executive Director for review and approval.

1) EROSION CONTROL PLAN COMPONENT

a. The erosion control plan shall demonstrate that:

- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;
- (2) The following temporary erosion control measures, as described in detail within in the January 2003 "California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Scheduling* (EC-1), *Preservation of Existing Vegetation* (EC-2), *Stabilized Construction Roadway* (TC-2), and *Silt Fences* (SE1); and
- (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources.

b. The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;

- (2) A site plan showing the location of all temporary erosion control measures;
- (3) A schedule for installation and removal of the temporary erosion control measures;
- (4) A site plan showing the location of all permanent erosion control measures; and
- (5) A schedule for installation and maintenance of the permanent erosion control measures.

2) RUN-OFF CONTROL PLAN COMPONENT

a. The runoff control plan shall demonstrate that:

- (1) Runoff from the project shall not increase sedimentation into coastal waters;
- (2) Runoff from access roads and driveways, emergency vehicle turn-around areas, and other impervious surfaces on the site shall be collected and conveyed into vegetated areas to avoid sedimentation either on or off the site, and provide for bio-filtration treatment of pollutants entrained in runoff; and
- (3) The following temporary runoff control measures, as described in detail within in the January 2003 "California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Material Delivery and Storage* (WM-01), *Solid Waste Management* (WM-05), and *Vehicle and Equipment Fueling* (NS-9).

b. The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary runoff control measures to be used during construction and all permanent runoff control measures to be installed for permanent runoff control;
- (2) A site plan showing the location of all temporary runoff control measures;
- (3) A schedule for installation and removal of the temporary runoff control measures;
- (4) A site plan showing the location of all permanent runoff control measures; and
- (5) A site plan showing finished grades (at 1-foot contour intervals) and drainage improvements.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the

Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**5. Encroachment Permit**

**PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-05-021**

the applicant shall submit to the Executive Director for review and written approval, evidence of an encroachment permit or exemption from Humboldt County. The encroachment permit or exemption shall evidence the ability of the applicant to improve the driveway and access roads to parcels 1, 2, and 3 of the subdivision at their intersections with Stagecoach Road, as conditioned herein.

**6. Final Parcel Map Review and Approval**

A. **PRIOR TO RECORDATION OF THE FINAL PARCEL MAP**, the applicant shall submit for the review and approval of the Executive Director a copy of the final parcel map approved by the County of Humboldt. The final map shall be consistent with the terms and conditions of Coastal Development Permit No. 1-05-021, and shall contain the following graphically-depicted information and textual notations:

- 1) Illustrations to be included on the Final Parcel Map
  - a. Demarcation of the open space deed restriction area over the environmentally sensitive habitat area and the 100-foot buffer area required by Special Condition No. 1(A);
  - b. Demarcation of the open space deed restriction areas over the bluff edge setbacks required by Special Condition No. 1(B) and 1(C);  
and
  - c. Depiction of all existing and proposed deed restriction and easement areas consistent with the requirements of Coastal Development Permit No. 1-05-021.
- 2) Notes to be placed on the Final Parcel Map
  - a. “The open space areas depicted on this map are areas in which no ‘development’ as defined by Section 30106 of the Coastal Act may occur as required by Special Condition No. 1 of Coastal Development Permit No. 1-05-021.”

- B. The applicant shall record the final parcel map consistent with the final parcel map as approved by the Executive Director.

**7. Recorded Documents Affecting Adjustment of Parcel Boundaries.**

Once the deeds, parcel or survey maps, and/or other instruments affecting the division of land authorized by this permit have been recorded, the applicant shall provide confirmed copies of these documents to the Executive Director.

**8. Area of Archaeological Significance**

- A. If an area of cultural deposits is discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (c) hereof; and a qualified cultural resource specialist shall analyze the significance of the find.
- B. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.
  - (i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.
  - (ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

**9. Landscaping Restrictions**

The permittee shall comply with the following landscaping-related requirements:

- (a) Only native and/or non-invasive plant species shall be planted. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on

the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the bounds of the property; and

- (b) The use of rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

**10. No Future Bluff or Shoreline Protective Device**

- A(1) By acceptance of this Permit, the applicant/landowners agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 1-05-021 including, but not limited to, the driveway and access road improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2) By acceptance of this Permit, the applicant/landowners further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the driveway and access road improvements, if any government agency has ordered that the improvements are not to be used due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- A(3) In the event the edge of the bluff recedes to within twenty-five (25) feet of the driveway improvements but no government agency has ordered that the improvements not be used, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the permittee, that addresses whether any portions of the driveway and access road improvements are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the access and driveway improvements without shore or bluff protection, including but not limited to removal or relocation of portions of the access and driveway improvements. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the access and driveway improvements is unsafe for use, the permittee shall, within 90 days of submitting the report, apply for a coastal

development permit amendment to remedy the hazard which shall include removal of the threatened portion of the development.

**11. Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant/landowners acknowledge and agree: (i) that the site may be subject to hazards from coastal erosion hazards, such as waves, storm waves, and flooding; or landslide, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

**12. Public Rights.**

The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property. In addition, by acceptance of this permit, the applicant acknowledges that the voluntary offers to dedicate public access do not abrogate the County's or the Commission's abilities under the Coastal Act to consider the effects of future development of the property on public access and the possible need to require additional public access on the property in the future.

**III. FINDINGS AND DECLARATIONS.**

The Commission hereby finds and declares:

**A. Site Description.**

The subject 39.6-acre property is located along the coastal bluffs between the City of Trinidad and Patrick's Point State Park, about one and a half miles north of the City. The property is on the west side of Stagecoach Road, approximately 1,400 feet southwest from the intersection of Hobson Road with Stagecoach Road, on the property known as 1090 Stagecoach Road. Stagecoach Road is the first public road nearest the sea, and is narrow and windy.

The property is currently developed with one single-family residence, a barn, water wells, a septic system and dirt access roads.

The subject property is designated locally in the Humboldt County General Plan as Rural Residential, 5-acre minimum lot size, with an overlay combining zone regarding the evaluation of geologic hazards, design review, and the protection of offshore rocks, intertidal areas, streams, and riparian corridors. The property is surrounded by Stagecoach Road to the east, residential parcels to the north and south, and the Pacific Ocean to the west. The surrounding residential development ranges from smaller older homes of modest stature to large newer homes. The subject property includes ocean beaches, coastal bluffs, forested area, and open fields.

The coastline along the site is characterized by offshore rocks and narrow sand beaches backed by high rocky bluffs. The area on the property at the top of the bluffs is part of an uplifted marine terrace. Site topography varies considerably from the relatively flat ground of the marine terrace to the steep slopes within the Martin Creek ravine and on the coastal bluffs. According to the geotechnical report prepared for the project, elevations on the property range from sea level at the beach at the foot of the bluff to a maximum of 212 feet above mean sea level the very southeastern corner of the property near Stagecoach Road. The bluff top consists of a gently sloping (5% to 15%) uplifted marine terrace. The slope gradients of the bluff face vary and range from 25% to 110%, and the length of the slope of the bluff face varies between 330 feet at the north end of the property where the bluff face is steepest to 750 feet near the southern end of the property where the slope is shallower. Martin Creek, a perennial stream, runs through the property.

The property is in an area designated by the County as an area of high slope instability. In addition, a portion of the area to become Parcel 3 is within an Alquist-Priolo Special Studies hazard zone, as the Trinidad fault is present just south of the site.

The majority of the bluff top area of the subject property is covered with North coast coniferous forest habitat. The habitat assessment prepared for the project describes the habitat as follows:

The overstory of the forest habitat is dominated by Sitka spruce (*Picea sitchensis*) and red alder (*Alnus rubra*), with scattered grand fir (*Abies grandis*) and naturalized and/or planted Monterey cypress (*Cupressus macrocarpa*) and blue gum eucalyptus (*Eucalyptus globules*). A subcanopy of cascara (*Rhamnus purshiana*) is present throughout this area. The dense shrub layer is dominated by coyote bush (*Baccharis pilularis*), salal (*Gaultheria shallon*), wax myrtle (*Myrica californica*), sword fern (*Polystichum munitum*), salmonberry (*Rubus spectabilis*), Pacific bramble (*R. ursinus*), and evergreen huckleberry (*Vaccinium ovatum*). The herbaceous layer varies from patchy to dense and is dominated by

the following species: milk maids (*Cardamine californica*), sedge species (*Carex sp.*) Siberian candyflower (*Claytonia sibirica*), toothed coast fireweed (*Erechtites minima*), cow parsnip (*Heracleum lantum*), Pacific water parsley (*Oenanthe sarmentosa*), sweet-cicely (*Osmorhiza chilensis*), redwood sorrel (*Oxalis oregano*) hedge-nettle (*Stachys sp.*) and starflower (*Trientalis latifolia*). Heavy woody debris is scattered throughout the forest floor.

The portion of Martin Creek that is within the project area, defined as the SMA study area, is approximately 700 linear feet (Photo 1 in Attachment 2). This portion of the drainage is characterized by a well-developed streambed with moderately steep vegetated slopes. The riparian corridor includes a moderately open overstory of big-leaf maple (*Acer macrophyllum*), Sitka spruce and red alder, with scattered cascara and willows. Numerous moss and lichen species are present on the trees. The dense mesic understory is dominated by lady fern (*Athyrium filix-femina*), sedges, salal, false lily-of-the-valley (*Maianthemum dilatatum*), Pacific water-parsley, sweet-cicely, redwood sorrel, sword fern, salmonberry, Pacific bramble, elderberry (*Sambucus racemosa*), *Stachys sp.*, piggy-back plant (*Tolmiea menziesii*), and evergreen huckleberry with scattered native and non-native grass species. Plant species cover the banks of the creek and there is relatively little evidence of stream bank erosion.

West of the Martin Creek study area, the terrain transitions to a steep coastal bluff that coincides with the shift from mesic North coast coniferous forest to coastal scrub brush habitat. This habitat is dominated by wind battered Sitka spruce and red alder, coyote bush, pampass grass (*Cortaderia jubata*), wax myrtle, and sword fern.

South of the Martin Creek drainage corridor, the vegetation composition consists of North coast coniferous forest habitat, although an open field is located within the building envelope of parcels 2 and 3 (Photo 2 in Attachment 2). The field was probably created from previous mowing and/or grazing activities. Most of the dominant species in this area are ruderal species such as common velvet grass (*Holcus lanatus*), hairy cat's-ear (*Hypochaeris radicata*), ox-eye daisy (*Leucanthemum vulgare*), dandelion (*Taraxacum officinale*), and clovers (*Trifolium spp.*). Additional species include: yarrow (*Achillea millefolium*), coast strawberry (*Fragaria chiloensis*), Douglas's iris (*Iris douglasiana*), self heal (*Prunella vulgaris*), western buttercup (*Ranunculus repens*), and California figwort (*Scrophularia californica*). Douglas fir (*Pseudotsuga menziesii*), Sitka spruce, red alder, Monterey cypress and eucalyptus trees are scattered throughout the field and along its edges. The understory along the meadow edge includes coyote bush, Scots broom (*Cytisus scoparius*), salal, false lily-of-the-valley, and Pacific bramble. This habitat abruptly changes into coastal scrub brush beyond the edge of the bluff.

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The subject property provides suitable potential habitat for three species included on federal or state rare or endangered lists including coho salmon, bank swallow, and western lily. The potential coho salmon habitat is within Martin Creek, and the potential bank swallow habitat is along the coastal bluff. Marginal western lily habitat has been identified along Martin Creek and the boundaries of proposed parcels 2 and 3, within County required setback areas.

An existing foot trail crosses the subject property a short distance to the south of Martin Creek at a bend in Stagecoach Road. The trailhead along Stagecoach Road is obscured by existing roadside vegetation and may not be noticeable to the casual observer unfamiliar with the area. The trail extends from Stagecoach Road to the sea by descending a steep slope along the general course of the creek to the sandy and rocky beaches at the shoreline.

The property lies within an area designated as “Coastal Scenic” under the County’s uncertified General Plan. Views to the ocean through the property from most of Stagecoach Road are obscured by trees, although some views are afforded near Martin Creek.

Native Americans are known to have settled along the Humboldt County coast within the general vicinity of the subject property. However, there are no reports of historical resources having been found on the project site

**B. Local Coastal Program Background.**

In October of 1982, the Commission certified in part the Trinidad Area Land Use Plan of Humboldt County’s Local Coastal Program. However, the Commission denied certification of the plan for privately owned lands, other than lands owned by the Humboldt North Coast Land Trust, located west of Scenic Drive, Stagecoach Road, and Patrick’s Point Drive (where they are the first public roads paralleling the sea), and along the route of the 6<sup>th</sup> Avenue Trail in the Westhaven area. In denying certification for this area, the Commission suggested that the plan’s policies regarding the protection of the public’s right of access where acquired through use (i.e. potential prescriptive rights) be modified to conform to the natural resource, hazard, and public access policies of the Coastal Act. The County did not accept the suggested modification and the geographic area became an “area of deferred certification” or ADC. Consequently, the authority for granting coastal development permits within the ADC is still retained by the Commission.

**C. Project Description.**

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The proposed project consists of the subdivision of the 39.7-acre parcel into 4 lots of approximately 5.2 acres (Parcel 1), 10.3-acres (Parcel 2), 10.2 acres (Parcel 3), and 14 acres (remainder parcel). The remainder parcel is the parcel currently developed with a single-family residence, barn, water well system, and septic system. Proposed Parcels, 1, 2, and 3 are undeveloped except for existing wells and dirt access roads.

Water service would be accommodated by on-site wells. Wastewater treatment would be accommodated by individual on-site sewage disposal systems to be developed on each lot.

As part of its action on the tentative parcel map, the County required certain site access improvements. The County required that the proposed access drive intended to serve Parcels 2 and 3 that enters the southeast corner of the property from Stagecoach Road be widened to a width of 18 feet and paved with asphalt concrete for the first 50 feet, widened to 12 feet and constructed with an aggregate base for the remainder of the access road, and include a turnaround at the end of the access road. The access road and turnaround must be built consistent with the County's Fire Safe Ordinance Regulations. In addition, the existing access roads serving the remainder parcel and Parcel 1 must be paved with asphalt concrete for the width of the driveway and a distance of 25 feet from the edge of the County road.

Furthermore, the County required that each parcel, including the remainder parcel to developed with a 2,500-gallon emergency water supply. Water supply lines are also required to be installed to each parcel.

As part of the proposed project, the applicant is proposing to dedicate an easement to the North Coast Land Trust for a ten (10) foot wide vertical easement located on proposed Parcel 2 which would provide access to "Secret" Beach. The proposed easements and the conditions under which the grant easement would be recorded and public access use allowed are further discussed in Finding G, Public Access.

**D. Land Divisions Outside Existing Developed Areas.**

Section 30250(a) provides as follows:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been*

*developed and the created parcels would be no smaller than the average size of surrounding parcels.*

The subject property is located outside of the urban boundary of Trinidad, and is therefore subject to the rural land division criteria of Section 30250(a) of the Coastal Act. To meet the criteria, the subject property must be located within an area where 50% or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels.

Taking the second test first, the Commission has normally taken "surrounding parcels" to include those within a quarter-mile radius. Consistent with the decision of a state court of appeal (Billings v. CCC (1980) 103 Cal.App.3<sup>rd</sup> 729), this radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. In this instance, a major distinguishing factor is the local zoning and land use of the surrounding area. A total of 39 parcels in the surrounding area (excluding the subject parcel) are designated locally as Rural Residential which can be developed for low density residential use with five acre minimum parcel sizes. This rural residential area extends along the coastal bluff area approximately 1,000 feet south of the property, 2,500 feet north of the property, and a maximum of 1,000 feet east of the property, generally to Patrick's Point Drive in areas north of Martin Creek and Stagecoach Road south of Martin Creek (See page 4 of 4 of Exhibit 5). The surrounding area beyond this rural residentially zoned area is of a very different character. The area east of Patrick's Point Road includes parcels of relatively large size zoned for timber production and parcels of variable size zoned for commercial recreation partially because of their adjacency to Highway 101. The area north of the rural residentially zoned area is similarly zoned as commercial recreation, and to the south of the rural residentially zoned area is the large area encompassed by a portion of the Trinidad State Beach state park unit. Therefore, the Commission finds that it is appropriate to exclude the parcels beyond the surrounding rural residential area from the study area of conformance with the rural land division criteria.

The applicant submitted an analysis of the conformance of the parcels within the surrounding study area described above with the rural land division criteria of the Coastal Act (see Exhibit 5).

Of the 39 residential parcels in the lot size study area, over half (20) are less than five acres in gross size, with the largest being 25 acres. The arithmetic mean of these parcels is 6.3-acres, the median parcel size (the value falling in the middle of the range) is 5.0-acres, and the mode (the value which occurs most frequently) is five acres ( $n = 6$ ). Three of the four parcels that would be created by the proposed subdivision, the 10.2-acre Parcel 3, the 10.3-acre Parcel 2 and the 14-acre remainder parcel, would be larger than the 6.3-acre arithmetic mean, and the 5.2-acre Parcel 1 would be smaller than the mean. All four parcels would be larger than the 5.0-acre median parcel size and mode of the surrounding parcels.

The court in Billings concluded that the Commission should identify the "typical" or "representative" parcel size. Where the presence of several large parcels would skew the average, the median parcel size and mode provide a better picture of the typical parcel size in the area. In this instance, due to the presence of several large parcels, the arithmetic mean of surrounding parcels is larger than the smallest of the parcels proposed to be created by the subdivision (5.2 acres). However, both the median parcel size and the mode of surrounding parcels is smaller than 5.2 acres, and therefore the Commission finds that the proposed parcel sizes of the lots to be created by the land division are consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

The other test of the rural land division criteria of Section 30250(a) is whether 50% or more of the surrounding parcels are developed. In this case, 27 of the 39 surrounding parcels in the study area, or 69% are developed. Therefore, the proposed land division meets the developed parcel criteria as over 50 percent of the surrounding parcels are developed.

On the basis of the above analysis, the Commission finds that the proposed subdivision is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

**E. New Development.**

**F. Environmentally Sensitive Habitat Area.**

**G. Public Access and Recreation.**

**H Geologic Stability**

**I. Protection of Water Quality**

Coastal Act Policy

Section 30231 of the Coastal Act states as follows:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water*

*supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Discussion

Storm water runoff from new residential development can adversely affect the biological productivity of coastal waters by degrading water quality. Recognizing this potential impact, Section 30231 requires the protection of coastal waters to ensure biological productivity, protect public health and water quality. New development must not adversely affect these values and should help to restore them when possible.

The subject parcel includes intertidal areas, coastal bluffs and gently sloping portions of an uplifted coastal terrace planned and zoned for low-density rural residential development. Runoff from the terrace generally flows westerly across the property to the coastal bluffs and also north and south into the Martin Creek drainage which cuts across the property from east to west before discharging to the ocean.

As discussed in the Project Description finding above, the project entails only the platting of a total of four lots, consisting of three parcels and a remainder parcel in the parlance of the Subdivision Map Act, with no residential improvements being proposed at this time. The County's approval of the tentative subdivision map was, however, conditioned upon certain access roadway and water system improvements being performed on the property. Runoff originating from the development site that is allowed to drain off the site to Martin Creek or the coastal bluffs could contain entrained sediment and other pollutants that would contribute to degradation of the quality of coastal waters, including both Martin Creek and adjoining coastal waters. The applicant's engineer has submitted a conceptual storm water management plan that identifies several water quality management practices to be used in conjunction with development of the property.

Sedimentation impacts from runoff would be of the greatest concern during and immediately after construction of the access road improvements. Consistent with Section 30231 of the Coastal Act, the Commission attaches Special Condition No. 4, requiring that the applicants minimize erosion and sedimentation impacts from the proposed construction of the access road improvements. Special Condition No. 4 requires that the applicants submit for the review and approval of the Executive Director a final erosion and runoff control plan that would require that: (1) road work be performed in the dry season, (2) debris fencing be installed to contain runoff from road construction areas; (3) on-site vegetation be maintained to the maximum extent possible during construction; (4) the construction roadway be stabilized; and (5) runoff from all roads, driveways, and emergency vehicle turn-around areas be conveyed into vegetated swales.

The Commission notes that as subsequent residential construction is undertaken on the lots created by the subdivision, the Commission will have an opportunity to assess the

effects this construction would have on water quality resources of the area during the review of the related coastal development permits for any future residences.

The Commission thus finds that as conditioned, the proposed development is consistent with Section 30231 of the Coastal Act because existing water quality and biological productivity will be protected and maintained from impairing waste discharges.

**J. Visual Resource Protection**

**K. Archaeological and Cultural Resources**

Coastal Act Section 30244 provides protection of archaeological and paleontological resources and requires reasonable mitigation where development would adversely impact such resources.

The Yuroks, a Native American tribe, are known to have settled along the Humboldt County coast within the general vicinity of the subject property. The Yurok tribe had settlements extending north from Little River State Beach several miles to the south of the project site, to areas within Del Norte County, including over 50 named villages clustered along the Klamath River and coastal lagoons and creeks, including 17 villages on the coast. The North Coast Information Center, a unit of the State Historical Resources Information System, was asked to perform a cultural records search in the area affected by the proposed subdivision and the surrounding area. The Center reported there are no reports of historical resources from the project site and did not recommend further studies for historical resources. In addition, excavations performed on the portion of the site that would become Parcel 3 to evaluate fault rupture hazards uncovered no evidence of paleontological or archaeological resources.

Given the fact that no known archaeological resources have been discovered at the site and that the ground disturbing activities of the proposed development will be limited to shallow grading work in limited areas for driveway and access road development, the potential for the development to adversely affect archaeological or paleontological resources is very low. However, as Yurok settlements are known to exist in the general area, the potential impacts are not non-existent.

Therefore, to ensure protection of any cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches Special Condition No. 8, which requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director

to determine whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section Coastal Act Section 30244, as the development will not adversely impact archaeological resources.

**L. California Environmental Quality Act (CEQA).**

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on conformity with Coastal Act policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the Coastal Act, the proposed project has been conditioned to be found consistent with the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been made requirements of project approval. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

**EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Proposed Land Division
4. Health Department Letter
5. Rural Land Division Criteria Analysis
6. Excerpts of Geotechnical Report
7. Biological Assessment
8. Public Access Proposal

**ATTACHMENT A:**

**STANDARD CONDITIONS**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.